

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

RLI INSURANCE COMPANY

Plaintiff,

-v-

FIFTH THIRD BANCORP,

Defendant.

FIFTH THIRD BANCORP, an Ohio
corporation, and FIFTH THIRD BANK,
an Ohio banking corporation,

Plaintiffs,

-v.-

CERTAIN UNDERWRITERS AT
LLOYD'S SUBSCRIBING TO POLICY
NUMBERS B0509QA048710 and
B0509QA051310, AXIS INSURANCE
COMPANY, FEDERAL INSURANCE
COMPANY, CONTINENTAL
INSURANCE COMPANY, FIDELITY
AND DEPOSIT INSURANCE COMPANY
and ST. PAUL MERCURY INSURANCE
COMPANY,

Defendants.

Case No. 1:14-cv-00802-SSB-SKB

Judge: Sandra S. Beckwith
Magistrate Judge: Stephanie
K. Bowman

Case No. 1:14-cv-869-SSB-SKB

Judge: Sandra S. Beckwith
Magistrate Judge Stephanie K.
Bowman

JOINT MOTION TO RESET CALENDAR ORDER

Now come all parties, through counsel, and respectfully move this Honorable Court to change the Court's Calendar Order of March 12, 2015 (Doc. 35 in 1:14-cv-00869). The parties have been working diligently throughout the discovery process. It has become apparent, however,

that additional time is necessary. The parties believe that a Revised Calendar Order will allow the parties to conduct the necessary discovery in a way that will be efficient to the Court as well as all parties involved.

On March 12, 2015, this Court issued its Calendar Order which required Plaintiff RLI and Plaintiff Fifth Third to disclose experts March 7, 2016 with reports due May 11, 2016. Defendants were to identify experts June 28, 2016 with reports August 28, 2016. Fact discovery was to be completed by December 1, 2016 with a dispositive motion deadline of October 3, 2016.

On February 19, 2016, the Court granted Joint Motion for Extension of Time to Complete Discovery (Doc. 42 in 1:14-cv-00802). The Order amended the initial Calendar Order to allow RLI and Fifth Third to disclose experts by May 6, 2016 and initial reports July 11, 2016. Defendants, then, were to identify experts August 29, 2016 and submit initial reports by October 27, 2016 with rebuttal reports due December 2, 2016. The discovery deadline was modified so that it would be completed by February 3, 2017. The dispositive motion deadline remained unchanged.

Between the time of granting the Joint Motion for Extension of Time and a later request, the parties commenced a series of depositions. All told, there have been nineteen depositions taken in this litigation with more forthcoming.

Recognizing the significant amount of work that was being conducted, the parties in this matter filed an additional Motion to Extend Deadlines to Disclose Experts. (Doc. 52 in 1:14-cv-00802). Rather than seek an additional extension for the disclosure of experts, the parties, with the Court's permission, agreed to disclose experts at the same time as disclosing initial reports. As a result, RLI and Fifth Third Bank were required to produce reports and identify experts on August 29, 2016 with Defendants to follow October 27, 2016. Since that time, a second Agreed Motion

to Extend Deadlines to Disclose Experts was filed (Doc. 65 in 1:14-cv-00802) and which was granted August 24, 2016. The Agreed Motion granted an extension for Plaintiffs RLI and Fifth Third Bancorp to disclose the identity of experts and produce initial expert reports on September 2, 2016. Most recently, on September 1, 2016, RLI and Fifth Third requested an additional extension to disclose experts and produce initial reports September 16, 2016. On September 2, 2016, the request was granted.

While all of the parties have been diligently attempting to conduct discovery, the parties have agreed to participate in mediation which is scheduled for October 18, 2016 before the Honorable Judge Randall Newsome. An extension will enable the parties to focus their efforts on the mediation. The parties, therefore, propose that a new Scheduling Order be issued which sets forth the following dates:

October 18, 2018	Mediation
October 31, 2016	Plaintiff RLI Insurance Company and Plaintiff Fifth Third Bancorp shall produce expert reports
October 31, 2016	Deadline for filing responses to Fifth Third Bank's objection to Magistrate Judge's Order (Doc. 72 in 1:14-cv-00869)
December 31, 2016	Deadline for production of expert reports of Defendants Certain Underwriters at Lloyds Subscribing to Policy Nos. B0509QA048710 and B0509QA051310, Axis Insurance Company, Federal Insurance Company and Defendants, Continental Insurance Company, Fidelity and Deposit Insurance Company, St. Paul/Mercury Insurance Company, Defendant Fifth Third and Counterclaim Defendant RLI
January 31, 2017	Rebuttal reports from all parties

March 1, 2017

Discovery cutoff

March 15, 2017

Deadline to file dispositive motions

Vacating the current scheduled trial date and rescheduling at the Court's convenience no earlier than late May, 2017.

In addition, the parties agree that Magistrate Judge Bowman's Order of July 27, 2016 staying discovery relating to Fifth Third's bad faith allegation (Doc. 70 in 1:14-cv-00869) remains in effect until the trial court decides Fifth Third's pending objections. Should the Court sustain the decision of Magistrate Judge Bowman, the stay pertaining to Fifth Third's bad faith allegation shall remain in effect until March 15, 2017. Fifth Third Bank does not waive any right it may have to seek further reconsideration regarding the stay and bifurcation of bad faith discovery.

For the foregoing reasons, therefore, it is respectfully requested that this Honorable Court vacate the current Scheduling Order and submit a new Order interposing the dates set forth herein.

September 15th, 2016

Respectfully submitted,

s/ Brian D. Goldwasser

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CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following:

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